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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,764	11/06/2001	Jerrold V. Platt	P04717US1	6556
22885	7590	01/26/2006	EXAMINER	
MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721			RINES, ROBERT D	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,764

Applicant(s)

FLATT, JERROLD V.

Examiner

Robert D. Rines

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/6/2001.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Notice to Applicant

[1] This communication is in response to the patent application filed 6 November 2001. It is noted that this application benefits from Provisional Patent Application Serial No. 60/246,241 filed 6 November 2000. The IDS statement filed 6 November 2001 has been entered and considered. Claims 1-27 are pending.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[2] Claims 25 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Filler (United States Patent Application Publication #2001/0051881).

[A] As per claim 25, Filler teaches a method of managing patient referrals, comprising: providing a web site accessible to a plurality of health care providers (Filler; paragraphs [0016] [0073] [0074]), the plurality of health care providers including a referring physician and a consulting physician (Filler; paragraphs [0028] [0029] [0032] [0047]); receiving a request on the

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web page from the referring physician for a patient consultation to be performed by the consulting physician on a patient (Filler; paragraphs [0016] [0025] [0073]); and notifying the consulting physician of the request for a patient consultation (Filler; paragraphs [0025] [0076]).

[B] As per claim 26, Filler teaches a method further comprising requesting an authorization number for the patient consultation from an insurer providing insurance to the patient (Filler; paragraphs [0026] [0073] [0081] [0082]).

NOTE: Filler does not specifically request an "authorization number" with respect to information exchanged with an insurer. However, Filler clearly indicates "an insurer of the patient may also be notified about the diagnostic service utilizing the network to facilitate payment" (Filler; paragraph [0026]). The examiner is interpreting the above statement by Filler to encompass the applicant's desire to obtain "an authorization number" from the patient's insurer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

[3] Claims 1-3, 8-18, 20-24, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filler in view of Bianco et al., (United States Patent Application Publication #2002/0082865).

[A] As per claim 1, Filler teaches a method of managing patient referrals, comprising: providing a web site accessible to a plurality of health care providers (Filler; paragraphs [0016] [0073] [0074]); receiving a request for a patient consultation from a first health care provider to be performed by a second health care provider (Filler; paragraph [0025] [0076]), both the first health care provider and the second health care provider having a health care provider registration (Filler; paragraph [0016]); and notifying the second health care provider of the request for a patient consultation (Filler; paragraphs [0025] [0076]).

[i] Although it is clearly indicated that physicians accessing the disclosed medical services network of Filler are "enrolled physicians" (Filler; paragraph [0016]), Filler fails to expressly disclose details regarding the enrollment or registration process for physicians.

[ii] However, Bianco et al., teaches receiving through the web site, a plurality of health care provider registrations each associated with a health care provider (Bianco et al.; paragraphs [0016] [0132]).

[iii] It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Filler with those of Bianco et al. Such combination would have resulted in a web-based medical services network that enabled physicians to access a physician web site system for the purpose of referring a patient felt to be in need of a diagnostic or medical service (Filler; paragraphs [0016] [0017]). Further, such a system would have enabled physicians to register and log in to the system via a physicians' registration web page (Bianco et al.; paragraph [0132] and Fig. 24A). The motivation to combine the teachings would have been to enable a physician register with the system and enter biographical profile information and practice information (Bianco et al.; paragraph [0132]) into a searchable physicians' database such that other users of the system could access a physicians directory to search for the physician by name, specialty, or geographical location (Bianco et al.; paragraph [0098]), and upon identifying an appropriate physician, users could contact and communicate with the physician via an electronic message system (Bianco et al.; paragraph [0135]). Further motivation to combine the teachings would have been to provide an interactive, electronic patient healthcare system providing a full array of education and preparation tools for guiding a patient through a medical event (Bianco et al.; paragraph [0010]).

[B] As per claim 2, Filler teaches a method further comprising receiving a response from the second health care provider accepting or declining the request for a patient consultation (Filler; paragraphs [0076] [0047] [0073]).

[C] As per claim 3, Filler teaches a method further comprising scheduling a time for the patient consultation (Filler; paragraphs [0025] [0047]).

[D] As per claim 8, Bianco et al., teaches a method further comprising providing a health care provider profile associated with a health care provider registration (Bianco et al.; paragraphs [0085] [0098] [0132]).

[E] As per claim 9, Filler teaches a method wherein the request for patient consultation includes patient demographic data (Filler; paragraph [0026]).

[F] As per claim 10, Filler teaches a method wherein the request for patient consultation includes insurance information (Filler; paragraphs [0026] [0047]).

[G] As per claim 11, Filler teaches a method wherein the request for patient consultation includes patient contact information (Filler; paragraph [0026]).

[H] As per claim 12, Filler teaches a method wherein the request for patient consultation includes appointment preference information (Filler; paragraph [0047]).

[I] As per claim 13, Filler teaches a method further comprising providing information concerning the request for patient consultation to an insurer (Filler; paragraph [0073]).

[J] As per claim 14, Filler teaches a method further comprising receiving notification of approval or denial from the insurer (Filler; paragraphs [0021] [0026] [0073]).

NOTE: Filler does not specifically utilize terms "approval" or "denial" with respect to information exchanged with an insurer. However, Filler clearly indicates "an insurer of the patient may also be notified about the diagnostic service utilizing the network to facilitate payment" (Filler; paragraph [0026]). The examiner is interpreting the above statement by Filler to encompass the applicant's desire to obtain "approval" or "denial" from the patient's insurer.

[K] As per claim 15, the method of claim 1 wherein the step of notifying is notifying via email (Bianco et al.; paragraphs [0081] [0109] [0135]).

[i] As per claims 16 and 17, while Bianco et al. indicates that email is primarily used to facilitate communications between and among users of the system (Bianco et al.; paragraph [0135]), Bianco et al., further indicates that "communication between the healthcare information provider system and patient and the medical practitioner may be established using any type of communication hardware and protocols which are already known in the art" (Bianco et al.; paragraph [0081]). The examiner interprets the above noted statement of Bianco et al., to be

encompassing of the applicant's limitations of "notifying via fax" (claim 16) and "notifying via pager" (claim 17).

[L] As per claim 18, Filler teaches a system for managing patient referrals, comprising: a web site accessible to a plurality of health care providers (Filler; paragraphs [0016] [0073] [0074]); and transmitting requests from at least one of the registered health care providers to at least one of the registered health care providers (Filler; paragraph [0025]).

[i] Although it is clearly indicated that physicians accessing the disclosed medical services network of Filler are "enrolled physicians" (Filler; paragraph [0016]), Filler fails to expressly disclose details regarding the enrollment or registration process for physicians. Further, Filler fails to teach an inbox or an outbox associated with the registered healthcare providers.

[ii] However, Bianco et al. teaches at least one registration web page within the web site to allow each of the plurality of health care providers to register to become registered health care providers (Bianco et al.; paragraph [0132] and Fig. 24A); and an inbox within the web site associated with at least one of the registered health care providers (Bianco et al.; paragraphs [0109] [0135] and Figs. 11A and 11B).

[iii] Although Bianco et al., fails to specifically teach an outbox, Bianco et al., teaches an inbox and facilitation of communications between registered users of the system via email, therefore the examiner interprets the email configuration of the Bianco et al., invention to be

standard including an outbox, in addition to the disclosed inbox for each of the registered users of the system.

[iv] It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Filler with those of Bianco et al. Such combination would have resulted in a web-based medical services network that enabled physicians to access a physician web site system for the purpose of referring a patient felt to be in need of a diagnostic or medical service (Filler; paragraphs [0016] [0017]). Further, such a system would have enabled physicians to register and log in to the system via a physicians' registration web page (Bianco et al.; paragraph [0132] and Fig. 24A). The motivation to combine the teachings would have been to enable a physician register with the system and enter biographical profile information and practice information (Bianco et al.; paragraph [0132]) into a searchable physicians' database such that other users of the system could access a physicians directory to search for the physician by name, specialty, or geographical location (Bianco et al.; paragraph [0098]), and upon identifying an appropriate physician, users could contact and communicate with the physician via an electronic message system, including an email system configured with an inbox (Bianco et al.; paragraphs [0109] [0135]). Further motivation to combine the teachings would have been to provide an interactive, electronic patient healthcare system providing a full array of education and preparation tools for guiding a patient through a medical event (Bianco et al.; paragraph [0010]).

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[M] As per claim 20, Bianco et al. teaches a system wherein the at least one registration web page includes a physician registration web page (Bianco et al.; paragraph [0132]).

[N] As per claim 21, Bianco et al. teaches a system wherein the at least one registration web page includes a clinic registration web page (Bianco et al.; paragraphs [0126] [0132]).

[O] As per claim 22, Bianco et al. teaches a system wherein the at least one registration web page includes a department registration web page (Bianco et al.; paragraphs [0126] [0132] [0134]).

[P] As per claim 23, Bianco et al. teaches a system further comprising a patient registration web page (Bianco et al.; paragraphs [0103] [0104]).

[Q] As per claim 24, Bianco et al. teaches further comprising a mode of communication preference set by a referring health care provider and provided to a consulting health care provider (Bianco et al.; paragraph [0081]).

NOTE: Bianco et al., teaches that communication between the healthcare information provider system and the patient and the medical practitioner may be established using any type of communication hardware and protocols, which are already well known in the art. For instance, such communication can be accomplished over electric cable, fiberoptic cables, or any other cable, or in a wireless manner using radio frequency, infrared or other technologies (Bianco et

al.; paragraph [0081]). Given the diversity of communication means available in the invention disclosed by Bianco et al., the Examiner views the options available to the users of the Bianco system as encompassing the applicant's desire to allow the physician to designate a preferred mode of communication.

[i] Regarding claim 24, the obviousness and motivation to combine as discussed with regard to claim 18 above are applicable to claim 24 and are herein incorporated by reference.

[R] As per claim 27, Filler teaches notifying the consulting physician (Filler; paragraphs [0016] [0017] [0025]). Bianco et al. teaches a method wherein communications are according to a preferred mode of communications setting set by the consulting physician on the web site (Bianco et al.; paragraph [0081]).

NOTE: Bianco et al., teaches that communication between the healthcare information provider system and the patient and the medical practitioner may be established using any type of communication hardware and protocols, which are already well known in the art. For instance, such communication can be accomplished over electric cable, fiberoptic cables, or any other cable, or in a wireless manner using radio frequency, infrared or other technologies (Bianco et al.; paragraph [0081]). Given the diversity of communication means available in the invention disclosed by Bianco et al., the Examiner views the options available to the users of the Bianco system as encompassing the applicant's desire to allow the physician to designate a preferred mode of communication.

[i] Regarding claim 27, the obviousness and motivation to combine as discussed with regard to claim 18 above are applicable to claim 27 and are herein incorporated by reference.

[4] Claims 4-7, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filler and Bianco et al., as applied to claims 1 and 18 above, and further in view of Kiselik (United States Patent Application Publication #2001/0034631).

[A] As per claim 4, Filler does not teach a peer rating system. Although Bianco et al., teaches a system wherein the patient rates the level of quality of physicians and facilities (Bianco et al.; paragraphs [0022] [0089] [0134]), Bianco et al., fails to teach a peer-to-peer review between physicians.

[i] However, Kiselik teaches a method further comprising receiving a peer rating from the first health care provider of the second health care provider (Kiselik; Abstract and paragraphs [0059] [0072]).

[ii] It would have been obvious to one of ordinary skill in the art at the time the invention was made to have combined the teachings of Filler and Bianco et al., with those of Kiselik. Such combination would have resulted in a health services network that enabled a physician to access a physician web site system for the purpose of referring a patient felt to be in need of a particular diagnostic or medical service (Filler; paragraphs [0016] [0017]) and select an appropriate

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physician, based on the physician's submitted personal and practice profile, from a physician's directory (Bianco et al.; paragraph [0132]). Such combination would have expanded on the physician and facility review functions of Bianco et al. (Bianco et al.; paragraph [0134]) such that a referring physician could view review/ratings of past performance of the physicians in the directory (Kiselik; paragraph [0004]). The motivation to combine the teachings would have been to effect rapid and accurate selection, by a referring physician, of a specialist or treating physician for a medical service and enable an evaluation based upon past performance of both physicians (Kiselik; paragraphs [0004] [0059]).

[B] As per claim 5, Kiselik teaches a method wherein the peer rating is anonymous (Kiselik; paragraph [0044]).

[C] As per claim 6, Kiselik teaches a method wherein the peer rating is attributed to the first health care provider (Kiselik; Abstract and paragraphs [0059] [0072]).

[D] As per claim 7, Kiselik teaches a method further comprising providing the peer rating to the second health care provider (Kiselik; Abstract and paragraphs [0059] [0072]).

[i] Regarding claims 5-7, the obviousness and motivation to combine as discussed with regard to claim 4 above are applicable to claim 5-7 and are herein incorporated by reference.

[E] As per claim 19, Kiselik teaches a system further comprising a peer review component for providing feedback related to a patient consult by a consulting health care provider from a referring health care provider (Kiselik; Abstract and paragraphs [0059] [0072]).

[i] Regarding claim 19, the obviousness and motivation to combine as discussed with regard to claims 4 and 18 above are applicable to claim 19 and are herein incorporated by reference.

Conclusion

[5] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

McIlroy et al., HEALTH CARE MANAGEMENT SYSTEM FOR MANAGEING MEDICAL TREATMENTS AND COMPARING USER-PROPOSED AND RECOMMENDED RESOURCES REQUIRED FOR TREATMENT, United States Patent #5,583,758

Evans, ELECTRONIC MEDICAL RECORDS SYSTEM, United States Patent #5,924,074


Teagarden et al., COMPUTER IMPLEMENTED PATIENT MEDICATION REVIEW SYSTEM FOR THE MANAGED CARE, HEALTH CARE AND/OR PHARMACY INDUSTRY, United States Patent #6,014,631.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Rines whose telephone number is 571-272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDR


1/23/06


C. LUKE GILLIGAN
PATENT EXAMINER